

REMARKS

Claims 1-13 were previously pending in the present application. Claims 1, 2, 5, 7, 8 and 12 are hereby amended. Claims 3 and 4 are hereby cancelled. In light of the amendments made above and the following remarks, reconsideration of the now pending claims 1, 2 and 5-13 is respectfully requested.

Specification

The specification was objected to for failing to provide proper antecedent basis for the language of claim 1 stating "an essentially horizontally extending deflectable extension arm." Applicants' respectfully traverse this objection, since the specification includes this wording in the opening sentence of paragraph 11. Thus, no amendments to either the claims or the specification are believed necessary to overcome this objection.

§ 112

Claims 1-9, 12 and 13 were rejected under 35 U.S.C. § 112, first paragraph, for not enabling the use of "an extension arm" for attaching the toilet cover to the rear portion of the toilet base. While applicants respectfully traverse this rejection, it is not addressed on the merits herein since it is moot in light of the above amendment to claim 1 with regard to "a pair" of extension arms.

These claims were also rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness due to the recitation "can be removably attached." This language is hereby replaced with "is removably attachable." Thus, the cited rejection is believed to now be overcome.

§ 102

Claims 1-4, 7, 8, 12 and 13 were rejected under § 102(b) as being anticipated by the Bly patent (U.S. Pat. No. 5,341,571), and claims 1-9, 12 and 13 were rejected as being anticipated by the Moser patent (U.S. Pat. No. 6,381,762).

Claim 1 (and thus claims 2 and 5-13) have been amended to require a pair of extension arms and a cover hingedly connected to the base member and pivotable between an open position in which outward deflection of the extension arms is permitted allow the base member to be connected to the fastener and a closed position in which outward deflection of the extension arms is restricted to prevent separation of the base member from the fastener. This is believed to more clearly distinguish the claimed invention from the cited patents.

The Office action suggests that the Bly patent teaches a "cover" in the "arcuate element that bridges elements 74" shown in FIG. 6), and that the "cover" is capable of restricting outward deflection of the arm(s). It is not clear what the Examiner is referring to, however, there is no element in the Bly patent that corresponds to a "cover" for preventing outward deflection of the curved flanges 60 and 62, which the Office asserts correspond to the claimed "extension arms," and consequently there is not disclosure of a hinged cover, as now claimed.

The Office action also suggests that the Moser patent teaches a "cover" in the "outer portions labeled as 48,72 in FIG. 3" that is hinged to the base member via a living hinge "about 82 in FIG. 1". However, the apparatus disclosed in the Moser patent does not provide for latching attachment/detachment of the anchor plate 20 from the fasteners 12a and 12b by flexure of the retaining sections 22 and 24, which the Office asserts correspond to the claimed "extension arms." Instead, these elements are simply slid underneath (or from underneath) the heads of the fasteners and the latching attachment/detachment is provided for by the engagement of the locking surface 62 on the latch 48 with the bolt head 18a. Thus, the Moser patent does not teach the type of latching recited in amended claim 1.

Thus, claims 1, 2 and 5-13 as amended are believed to be allowable, and reconsideration is respectfully requested.

No fees are believed necessary for consideration of this response.
Nevertheless, should any additional fees be needed for full consideration of this amendment, please charge any fees believed necessary in connection with this response to Deposit Account 17-0055.

Respectfully submitted,
Erich C. Vierkant, III, et al.

By: 

Steven J. Wietrzny
Reg. No. 44,402
Attorney for Applicant
Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202
(414) 277-5415